

In the Matter of Merchant Mariner's Document No. Z-935873 and all
other Licenses, Certificates and Documents
Issued to: FRANCIS HENRI MURRAY

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

872

FRANCIS HENRI MURRAY

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations Sec. 137.11-1

By order dated 2 December 1955, an Examiner of the United States Coast Guard at San Francisco, California, suspended Merchant Mariner's Document No. Z-935873 issued to Francis Henri Murray upon finding him guilty of misconduct based upon two specifications alleging in substance that while serving as a fireman watertender on board the American SS AFOUNDRIA under authority of the document above described, on or about 31 October 1955, while said vessel was in the port of Pusan, Korea, he wrongfully assaulted and battered a member of the crew named William H. Harbman; and while in the service of the American SS JEAN LAFITTE as a fireman watertender and acting under the authority of the above document on or about 4 October 1955, he wrongfully failed to join his vessel in the port of Yokohama, Japan.

At the hearing, Appellant was given a full explanation of the nature of the proceedings the rights to which he was entitled and the possible results of the hearing. Although advised of his right to be represented by counsel of his own choice, Appellant acted as his own counsel. He entered a plea of "guilty" to the charge and each specification proffered against him.

Thereupon, the Investigating Officer made his opening statement. No evidence was introduced in view of the plea of "guilty." As a mitigating circumstance, Appellant stated that he used his fists while Harbman used a fire hose nozzle.

At the conclusion of the hearing, the Examiner announced his decision and concluded that the charge and two specifications had been proved by plea. He then entered the order suspending Appellant's Merchant Mariner's Document No. Z-935873, and all other licenses, certificates and documents issued to Appellant by the United States Coast Guard or its predecessor authority, for a period of sixteen months - ten months' outright suspension and six

months' suspension on probation for five years. The outright suspension includes a prior four months' probationary suspension.

Based upon my examination of the record submitted, I hereby make the following

FINDINGS OF FACT

On a foreign voyage including the date of 4 October 1955, Appellant was serving as a fireman watertender on board the American SS JEAN LAFITTE and acting under authority of his Merchant Mariner's Document No. Z-935873. On 4 October 1955, Appellant failed to join his vessel upon her departure from Yokohama, Japan.

On 31 October 1955, Appellant was serving as a fireman watertender on board the American SS AFOUNDRIA and acting under authority of his Merchant Mariner's Document No. Z-935873 while the ship was in the port of Pusan, Korea. On this date, a member of the crew named H. Harbman was assaulted and battered by Appellant with his fists.

Appellant's prior record consist of an admonition in February 1955 for failure to join and a four months' suspension on twelve months' probation in May 1955 for failure to perform duties and intoxication.

BASIS OF APPEAL

This appeal has been taken from the order imposed by the Examiner. Appellant states that he missed his ship in Yokohama on 4 October 1955 because he overslept. Appellant requests another chance since he knows no other trade after going to sea for 10 years and he needs the job in order to support his family.

OPINION

Appellant has not presented anything which persuades me to modify the order. No explanation was offered concerning the more serious offense of assault and battery to which Appellant entered a plea of guilty. Appellant's record indicates a disposition to abuse the strict discipline and order which is required on ships. Therefore, it is my opinion that the outright suspension imposed by the Examiner is necessary as a remedial measures to protect against such conduct in the future. Appellant was given another chance in February 1955 and again in May. 1955.

ORDER

The order of the Examiner dated at San Francisco, California,

on 2 December 1955 is

AFFIRMED.

J. A. Hirshfield
Rear Admiral, United States Coast Guard
Acting Commandant

Dated at Washington, D.C., this 4th day of April, 1956.